

REMARKS

Status of the Claims

Claims 1-77 are in the case. Claims 1-77 have been rejected. The claims have been amended, but no new matter has been added.

Claim Rejections under 35 U.S.C. § 103

Claims 1-77 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fano et al. 2002/0133545.

Applicants' Response

As conceded by the Examiner, the Fano et al reference lacks any disclosure or suggestion of the Applicant's claimed shortcut aspect, which provides a means for user to create new and personalized functions for execution in response of receiving certain RF tag information or machine-readable data.

The Examiner has made two Official Notices, which read as follows:

Official Notice is taken that "pointer" to access memory locations in databases (servers of Fano) old and well known in the art. It would have been obvious to a person of ordinary skill in the art at the time of the invention to use pointers to locate data within Fano's databases. This would allow for rapid access to the information in the database in a conventional manner. These pointers are interpreted as "shortcuts".

Official Notice is taken that cell "picture" phones are old and well known. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include a picture phone in the network of Fano. This would allow the holder of the phone to capture images.

The Applicant hereby challenges both of the Examiner's Official Notices.

In one embodiment, the Applicant's claimed invention enables the user to create a new shortcut that the user designates to be activated by the sensing of a selected RF tag or machine-readable data. In accordance with one embodiment of the invention, the newly created shortcut includes at least RF tag information and a command associated with said RF tag information. In another embodiment of the invention, the newly created shortcut includes at least machine-readable information and a command associated with said machine-readable information. In accordance with the invention, the selected command included in the newly created shortcut is designed to invoke a preferred application. Actual activation of the new shortcut occurs at a later time by reading the same RF tag or capturing the same machine-readable data that was designated by the user when the new shortcut was created. When the new shortcut is thus activated at a later time, its command invokes the execution of the preferred application. The selection of the preferred application was designated as part of the creation of the new shortcut. Nothing like the Applicant's claimed newly created shortcut is disclosed or suggested by Fano.

In contrast, Fano's pointer is merely an address to a memory location, without an associated command. Fano's pointer is an inert memory address, nothing more. Moreover, Fano's bar code reader is merely an input device for a bar code, without an associated command. There is no disclosure or suggestion in Fano of the creation of the Applicant's claimed new shortcut, which includes, in one embodiment, at least RF tag information and a command associated with said RF tag information. In another embodiment of the Applicant's claimed invention, the newly created shortcut includes at least machine-readable information and a command associated with said machine-readable information.

If the Examiner is taking Official Notice of this feature, then he must support it with substantial evidence. MPEP 2144.03(B) requires that the Examiner present evidence to support an Official Notice. The section reads:

[T]here must be some form of evidence in the record to support an assertion of common knowledge. See Lee, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); Zurko, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that general conclusions concerning what is "basic knowledge" or "common sense" to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection)

The required substantial evidence is lacking to support the Examiner's Official Notices. There is no disclosure or suggestion of the creation of the Applicant's claimed new shortcut or its creation, as described above.

For the above-stated reasons, all of the pending claims of this application are believed to be in condition for allowance, and an early and favorable examination is respectfully requested.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 4208-4165.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No 13-4500, Order No. 4208-4165.

Respectfully submitted,
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